

City Council  
Atlanta, Georgia

**09-O-1647**

**Z-09-31**

AN ORDINANCE

BY: COUNCILMEMBER FELICIA A. MOORE  
AS AMENDED BY ZONING COMMITTEE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the city of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **846 Huff Road and 0 Huff Road (17-01500001011), NW.** be changed from I-1 (Light Industrial) district to the O-I-C (Office-Institutional-Conditional), to wit:

ALL THAT TRACT or parcel of land lying and being in Land Lot 150, 17<sup>th</sup> District, Fulton County, Georgia being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

**Conditions for Z-09-31 for 846 Huff Road & O Huff Road (17-01500001011), N.W.**

1. The following primary uses are prohibited:
  - Churches, synagogues, temples, mosques and other religious worship facilities,
  - Clubs and lodges
  - Dormitories, fraternity houses and sorority houses, officially affiliated with an accredited college, university or private school
  - Hospitals
  - Auditoriums, museums, libraries, galleries and similar cultural facilities; and community centers. These uses may be allowed as accessory to the permitted principal uses and structures.
  - Structures and uses required for operation of MARTA or of a public utility, except uses involving storage, train yards, warehousing, switching, or maintenance shop as the primary purpose.
  - Hotels
  - All commercial, sales and service activities not within completely enclosed buildings. No unenclosed displays of merchandise. No wholesaling or jobbing.
2. Floor area shall not exceed a floor area ratio of 0.50 of the net lot area.
3. Right-of-way along the Huff Road frontage not to exceed 14 feet and as more particularly shown in the shaded area on the Right-of-Way Dedication Exhibit by Niles Bolton Associates dated 10/06/2009 and received by the Bureau of Planning on 10/06/2009 shall be preserved to facilitate future improvements to the Huff Road right-of-way.
4. The applicant will request that the City direct impact fees generated by this project to the improvement of adjacent right-of-ways possibly to include Huff Road, Earnest Street and West Lane and other related local improvements. Evidence of compliance with this condition shall be provided in writing to the Director of the Bureau of Planning at the time of the submission of a Special Administrative Permit.
5. The existing curb cuts located at the intersection of Earnest Street and Huff Road shall be redesigned in coordination with the Department of Public Works regulations and procedures. The Department of Public Works will have review and final approval of compliance of this condition.
6. Landscaping adjacent to West Lane shall be maintained and limbed as necessary not to encroach up to a height of 12' above the right-of way of West Lane.
7. The applicant shall provide a minimum 6' sidewalk and associated crosswalks along parcel frontage along Earnest Street and Huff Road. The actual location of the sidewalks and the time of construction will be determined during the Special Administrative Permit process.
8. All of the above conditions shall not be construed to modify applicable requirements pursuant to the BeltLine Overlay district.



**LEGAL DESCRIPTION**

**WHITTAKER SCHOOL TRACT  
846 Huff Road**

All that certain tract or parcel of land lying and being in Land Lot 150 of the 17<sup>th</sup> District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at the point located on the southerly right-of-way line of Earnest Street (having a variable right-of-way width), said point being located 179.92 feet from the northwesterly right-of-way line of West Lane (having a 40-foot right-of-way width), said point being the TRUE POINT OF BEGINNING,

Thence leaving said southerly right-of-way line of Earnest Street (having a variable right-of-way width) and running South 00 degrees 35 minutes 44 seconds West a distance of 141.04 feet to a point,

Thence running North 83 degrees 12 minutes 08 seconds East a distance of 118.42 feet to a point on the northwesterly right-of-way line of West Lane (having a 40-foot right-of-way width),

Thence running along the northwesterly right-of-way line of West Lane (having a 40-foot right-of-way width) South 24 degrees 47 minutes 25 seconds West a distance of 163.17 feet to a point,

Thence leaving said northwesterly right-of-way line of West Lane (having a 40-foot right-of-way width) South 83 degrees 20 minutes 13 seconds West a distance of 241.37 feet to a point,

Thence running North 07 degrees 01 minutes 53 seconds West a distance of 98.36 feet to a point,

Thence running North 00 degrees 25 minutes 26 seconds West a distance of 40.75 feet to a point,

Thence running North 00 degrees 42 minutes 00 seconds East a distance of 167.33 feet to a point located on the southerly right-of-way line of Earnest Street (having a 40-foot right-of-way width),

Thence running along said southerly right-of-way line of Earnest Street (having a variable right-of-way width) South 89 degrees 07 minutes 31 seconds East a distance of 202.42 feet to a point, said point being the TRUE POINT OF BEGINNING.

1 of 3

### TRACT DESCRIPTION <sup>®</sup><sub>1</sub>

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 150 OF THE 17th DISTRICT, BEING LOT 17 OF THE "SUNSET HEIGHTS" SUBDIVISION AS PER PLAT BOOK 11, PAGE 198, FULTON COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CONCRETE NAIL SET LOCATED AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WEST LANE (HAVING A 40 FOOT RIGHT-OF-WAY WIDTH) WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF ERNEST STREET EXTENDED ( HAVING A VARIABLE RIGHT-OF WAY WIDTH); THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF ERNEST STREET EXTENDED NORTH 89 DEGREES 06 MINUTES 24 SECONDS WEST A DISTANCE OF 99.84 FEET TO AN IRON PIN FOUND(NO. 4 REBAR), SAID IRON PIN FOUND BEING THE TRUE POINT OF BEGINNING; THENCE FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, DEPARTING SAID RIGHT-OF-WAY RUNNING ALONG THE PROPERTY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO THE ESTATE OF MACON SIMS

SOUTH 00 DEGREES 55 MINUTES 41 SECONDS WEST A DISTANCE OF 130.26 FEET TO AN IRON PIN FOUND(NO. 4 REBAR); THENCE DEPARTING SAID PROPERTY LINE RUNNING ALONG THE PROPERTY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO THE BOARD OF EDUCATION OF THE CITY OF ATLANTA SOUTH 83 DEGREES 10 MINUTES 32 SECONDS WEST A DISTANCE OF 39.72 FEET TO AN IRON PIN FOUND(NO. 4 REBAR); THENCE DEPARTING SAID PROPERTY LINE RUNNING ALONG THE PROPERTY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO HARRIET McCURDY NORTH 00 DEGREES 37 MINUTES 30 SECONDS EAST A DISTANCE OF 135.59 FEET TO AN IRON PIN FOUND(NO. 4 REBAR); THENCE DEPARTING SAID PROPERTY LINE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY OF ERNEST STREET EXTENDED SOUTH 89 DEGREES 06 MINUTES 24 SECONDS EAST A DISTANCE OF 40.08 FEET TO SAID IRON PIN FOUND AT THE TRUE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 0.121 ACRE, BEING 5,280 SQUARE FEET, INCLUDING ALL EASEMENTS.

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SECTION 1. That the Zoning Ordinance of the city of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **1192 FOSTER STREET, N.W.** be changed from I-1 (Light Industrial) district to the O-I (Office-Institutional), to wit:

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## SUMMARY

This application requests a rezoning of the existing 1.6 acre Whitaker School tract and two vacant tracts totaling 0.248 acres from I-1 zoning district to the O-I zoning district. Upon rezoning the properties will be incorporated into the existing campus of The Howard School, also zoned O-I. The applicant proposes to use the subject property in one of the following ways: (1) renovate the existing 17,688 square foot Whitaker School building and use as an educational building; (2) demolish the existing Whitaker School building and construct a new 26,000 square foot educational building; or (3) demolish the existing Whitaker School building and use the subject property as an athletic field and/or greenspace. Access for the subject property will be relocated from Huff Road and Earnest Road to The Howard School's current main entrance on Foster Street. Access from Earnest Street will be restricted to service and loading functions as shown on the site plan.

Established in 1950, The Howard School educates students with language learning disabilities and differences. Enrollment for this independent day school currently consists of a maximum of 265 students ages four through high school. Upon rezoning of the subject property for inclusion in The Howard School campus, the maximum enrollment is anticipated to be 361 students.

## REZONING DOCUMENTED IMPACT ANALYSIS

### **Compatibility with comprehensive development plans; timing of development.**

The O-I zoning proposal is consistent with the existing Mixed Use Comprehensive Development Plan designation. The expansion of The Howard School's existing campus to include the subject property will add to the mix of residential, commercial, institutional and industrial uses existing and proposed along the Huff Road corridor.

### **Availability of and effect on public facilities and services; referrals to other agencies.**

All necessary public facilities and services are currently available to this property. No adverse effect on public facilities or services is anticipated by the proposal. On the contrary, combining the subject property with The Howard School's existing campus will improve vehicular travel on Huff Road by reducing the number of access points along Earnest Street and Huff Road and improving sight distance profiles. The main access for the subject property will be relocated to Foster Street and combined with the existing main access drive to The Howard School. Reconfiguring the access will improve traffic circulation and ingress and egress to the site from Huff Road.

### **Availability of other land suitable for proposed use; effect on balance of land uses.**

The subject property is located immediately adjacent to The Howard School's existing campus and is ideal for an expansion of the school. The site was previously used for school purposes and therefore would not disrupt the balance of land uses.

### **Effect on character of the neighborhood.**

The immediate neighborhood consists of a mix of existing and proposed commercial, industrial and residential uses located along The Beltline. Immediately adjacent to the subject property on Foster Street is the goat farm property recently rezoned PDMU for approximately 614,400 square feet of residential uses and 145,000 square feet of commercial uses. On Huff Road, the adjacent and nearby properties are currently developed with No Mas furniture showroom, Georgia Steel and a variety of industrial uses. Several multifamily developments have been approved or are under construction along the Huff Road corridor. Redevelopment of the abandoned school will have a positive effect on the neighborhood and the existing mix of uses.

### **Suitability of proposed use.**

The proposed school use is suitable for the site given the historical use of the site as a school and the proximity to The Howard School's existing campus. Further, use of the site for scholastic purposes complements the Mixed Use Comprehensive Development Plan designation for this site.

### **Effect on adjacent property.**

The renovation of the existing Whitaker School building or its replacement with a new school building or athletic field will benefit the adjacent property by revitalizing this currently vacant and neglected site. The proposed educational use of the site will add to and balance the mix of other uses existing and proposed on adjacent property.

### **Economic use of current zoning.**

Although the property may have an economic use under the current I-1 zoning, the change in zoning will permit a use that is more compatible with the recent trend away from industrial development in this area and the long range goals of The Beltline. The Howard School's expansion will help balance the recent influx of residences west of Midtown.

### **Tree Preservation.**

The applicant shall comply with the policies related to tree preservation as adopted in Section 158-28 (Policy, Purpose and Intent) of the City of Atlanta Tree Ordinance.